

FIRST REGULAR SESSION

# SENATE BILL NO. 615

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time February 28, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2531S.011

## AN ACT

To repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to the homestead preservation exemption tax credit program.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 137.106, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 137.106, to read as follows:

137.106. 1. This section may be known and may be cited as "The Missouri  
2 Homestead Preservation Act".

3 2. As used in this section, the following terms shall mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of revenue;

6 (3) "Disabled", as such term is defined in section 135.010, RSMo;

7 (4) "Eligible owner", any individual owner of property who is sixty-five  
8 years old or older as of January first of the tax year in which the individual is  
9 claiming the credit or who is disabled, and who had an income of equal to or less  
10 than the maximum upper limit in the year prior to completing an application  
11 pursuant to this section; or

12 (a) In the case of a married couple owning property either jointly or as  
13 tenants by the entirety, or where only one spouse owns the property, such couple  
14 shall be considered an eligible taxpayer if both spouses have reached the age of  
15 sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years  
16 old and the other spouse is at least sixty years old, and the combined income of  
17 the couple in the year prior to completing an application pursuant to this section  
18 did not exceed the maximum upper limit; or

19 (b) In the case of joint ownership by unmarried persons or ownership by  
20 tenancy in common by two or more unmarried persons, such owners shall be

21 considered an eligible owner if each person with an ownership interest  
22 individually satisfies the eligibility requirements for an individual eligible owner  
23 under this section and the combined income of all individuals with an interest in  
24 the property is equal to or less than the maximum upper limit in the year prior  
25 to completing an application under this section. If any individual with an  
26 ownership interest in the property fails to satisfy the eligibility requirements of  
27 an individual eligible owner or if the combined income of all individuals with  
28 interest in the property exceeds the maximum upper limit, then all individuals  
29 with an ownership interest in such property shall be deemed ineligible owners  
30 regardless of such other individual's ability to individually meet the eligibility  
31 requirements; or

32 (c) In the case of property held in trust, the eligible owner and recipient  
33 of the tax credit shall be the trust itself provided the previous owner of the  
34 homestead or the previous owner's spouse: is the settlor of the trust with respect  
35 to the homestead; currently resides in such homestead; and but for the transfer  
36 of such property would have satisfied the age, ownership, and maximum upper  
37 limit requirements for income as defined in subdivisions (7) and (8) of this  
38 subsection;

39 No individual shall be an eligible owner if the individual has not paid their  
40 property tax liability, if any, in full by the payment due date in any of the three  
41 prior tax years, except that a late payment of a property tax liability in any prior  
42 year shall not disqualify a potential eligible owner if such owner paid in full the  
43 tax liability and any and all penalties, additions and interest that arose as a  
44 result of such late payment; no individual shall be an eligible owner if such  
45 person filed a valid claim for the senior citizens property tax relief credit  
46 pursuant to sections 135.010 to 135.035, RSMo;

47 (5) "Homestead", as such term is defined pursuant to section 135.010,  
48 RSMo, except as limited by provisions of this section to the contrary. No property  
49 shall be considered a homestead if such property was improved since the most  
50 recent annual assessment by more than five percent of the prior year appraised  
51 value, except where an eligible owner of the property has made such  
52 improvements to accommodate a disabled person;

53 (6) "Homestead exemption limit", a percentage increase, rounded to the  
54 nearest hundredth of a percent, which shall be equal to the percentage increase  
55 to tax liability, not including improvements, of a homestead from one tax year to  
56 the next that exceeds a certain percentage set pursuant to subsection 10 of this

57 section. For applications filed in 2005 or 2006, the homestead exemption limit  
58 shall be based on the increase to tax liability from 2004 to 2005. For applications  
59 filed between April 1, 2005, and September 30, 2006, an eligible owner, who  
60 otherwise satisfied the requirements of this section, shall not apply for the  
61 homestead exemption credit more than once during such period. For applications  
62 filed after 2006, the homestead exemption limit shall be based on the increase to  
63 tax liability from two years prior to application to the year immediately prior to  
64 application;

65 (7) "Income", federal adjusted gross income, and in the case of ownership  
66 of the homestead by trust, the income of the settlor applicant shall be imputed  
67 to the income of the trust for purposes of determining eligibility with regards to  
68 the maximum upper limit;

69 (8) "Maximum upper limit", in the calendar year 2005, the income sum of  
70 seventy thousand dollars; in each successive calendar year this amount shall be  
71 raised by the incremental increase in the general price level, as defined pursuant  
72 to article X, section 17 of the Missouri Constitution.

73 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in  
74 the prior tax year, the property tax liability on any parcel of subclass (1) real  
75 property increased by more than the homestead exemption limit, without regard  
76 for any prior credit received due to the provisions of this section, then any eligible  
77 owner of the property shall receive a homestead exemption credit to be applied  
78 in the current tax year property tax liability to offset the prior year increase to  
79 tax liability that exceeds the homestead exemption limit, except as eligibility for  
80 the credit is limited by the provisions of this section. The amount of the credit  
81 shall be listed separately on each taxpayer's tax bill for the current tax year, or  
82 on a document enclosed with the taxpayer's bill. The homestead exemption credit  
83 shall not affect the process of setting the tax rate as required pursuant to article  
84 X, section 22 of the Constitution of Missouri and section 137.073 in any prior,  
85 current, or subsequent tax year.

86 4. If application is made in 2005, any potential eligible owner may apply  
87 for the homestead exemption credit by completing an application through their  
88 local assessor's office. Applications may be completed between April first and  
89 September thirtieth of any tax year in order for the taxpayer to be eligible for the  
90 homestead exemption credit in the tax year next following the calendar year in  
91 which the homestead exemption credit application was completed. The  
92 application shall be on forms provided to the assessor's office by the

93 department. Forms also shall be made available on the department's Internet  
94 site and at all permanent branch offices and all full-time, temporary, or fee offices  
95 maintained by the department of revenue. The applicant shall attest under  
96 penalty of perjury:

97 (1) To the applicant's age;

98 (2) That the applicant's prior year income was less than the maximum  
99 upper limit;

100 (3) To the address of the homestead property; and

101 (4) That any improvements made to the homestead, not made to  
102 accommodate a disabled person, did not total more than five percent of the prior  
103 year appraised value. The applicant shall also include with the application copies  
104 of receipts indicating payment of property tax by the applicant for the homestead  
105 property for the two prior tax years.

106 5. If application is made in 2005, the assessor, upon request for an  
107 application, shall:

108 (1) Certify the parcel number and owner of record as of January first of  
109 the homestead, including verification of the acreage classified as residential on  
110 the assessor's property record card;

111 (2) Obtain appropriate prior tax year levy codes for each homestead from  
112 the county clerks for inclusion on the form;

113 (3) Record on the application the assessed valuation of the homestead for  
114 the current tax year, and any new construction or improvements for the current  
115 tax year; and

116 (4) Sign the application, certifying the accuracy of the assessor's entries.

117 6. If application is made after 2005, any potential eligible owner may  
118 apply for the homestead exemption credit by completing an  
119 application. Applications may be completed between April first and October  
120 fifteenth of any tax year in order for the taxpayer to be eligible for the homestead  
121 exemption credit in the tax year next following the calendar year in which the  
122 homestead exemption credit application was completed. The application shall be  
123 on forms provided by the department. Forms also shall be made available on the  
124 department's Internet site and at all permanent branch offices and all full-time,  
125 temporary, or fee offices maintained by the department of revenue. The applicant  
126 shall attest under penalty of perjury:

127 (1) To the applicant's age;

128 (2) That the applicant's prior year income was less than the maximum

129 upper limit;

130 (3) To the address of the homestead property;

131 (4) That any improvements made to the homestead, not made to  
132 accommodate a disabled person, did not total more than five percent of the prior  
133 year appraised value; and

134 (5) The applicant shall also include with the application copies of receipts  
135 indicating payment of property tax by the applicant for the homestead property  
136 for the three prior tax years.

137 7. Each applicant shall send the application to the department by  
138 September thirtieth of each year for the taxpayer to be eligible for the homestead  
139 exemption credit in the tax year next following the calendar year in which the  
140 application was completed.

141 8. If application is made in 2005, upon receipt of the applications, the  
142 department shall calculate the tax liability, adjusted to exclude new construction  
143 or improvements verify compliance with the maximum income limit, verify the  
144 age of the applicants, and make adjustments to these numbers as necessary on  
145 the applications. The department also shall disallow any application where the  
146 applicant has also filed a valid application for the senior citizens property tax  
147 credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax  
148 liability, age, and income are verified, the director shall determine eligibility for  
149 the credit, and provide a list of all verified eligible owners to the county collectors  
150 or county clerks in counties with a township form of government by December  
151 fifteenth of each year. By January fifteenth, the county collectors or county  
152 clerks in counties with a township form of government shall provide a list to the  
153 department of any verified eligible owners who failed to pay the property tax due  
154 for the tax year that ended immediately prior. Such eligible owners shall be  
155 disqualified from receiving the credit in the current tax year.

156 9. If application is made after 2005, upon receipt of the applications, the  
157 department shall calculate the tax liability, verify compliance with the maximum  
158 income limit, verify the age of the applicants, and make adjustments to these  
159 numbers as necessary on the applications. The department also shall disallow  
160 any application where the applicant also has filed a valid application for the  
161 senior citizens property tax credit under sections 135.010 to 135.035,  
162 RSMo. Once adjusted tax liability, age, and income are verified, the director shall  
163 determine eligibility for the credit and provide a list of all verified eligible owners  
164 to the county assessors or county clerks in counties with a township form of

165 government by December fifteenth of each year. By January fifteenth, the county  
166 assessors shall provide a list to the department of any verified eligible owners  
167 who made improvements not for accommodation of a disability to the homestead  
168 and the dollar amount of the assessed value of such improvements. If the dollar  
169 amount of the assessed value of such improvements totaled more than five  
170 percent of the prior year appraised value, such eligible owners shall be  
171 disqualified from receiving the credit in the current tax year.

172       10. The director shall calculate the level of appropriation necessary to set  
173 the homestead exemption limit at five percent when based on a year of general  
174 reassessment or at two and one-half percent when based on a year without  
175 general reassessment for the homesteads of all verified eligible owners, and  
176 provide such calculation to the speaker of the house of representatives, the  
177 president pro tempore of the senate, and the director of the office of budget and  
178 planning in the office of administration by January thirty-first of each year. **For**  
179 **all years after 2007, the director shall calculate the levels of**  
180 **appropriation necessary to set the homestead exemption limit**  
181 **anywhere between one hundredth of one percent and five percent when**  
182 **based on a year of general reassessment or anywhere between one**  
183 **hundredth of one percent and two and one-half percent when based on**  
184 **a year without general reassessment for the homesteads of all verified**  
185 **eligible owners, and provide such calculation to the speaker of the**  
186 **house of representatives, the president pro tempore of the senate, and**  
187 **the director of the office of budget and planning in the office of**  
188 **administration by January thirty-first of each year.**

189       11. For applications made in 2005, the general assembly shall make an  
190 appropriation for the funding of the homestead exemption credit that is signed  
191 by the governor, then the director shall, by July thirty-first of such year, set the  
192 homestead exemption limit. The limit shall be a single, statewide percentage  
193 increase to tax liability, rounded to the nearest hundredth of a percent, which, if  
194 applied to all homesteads of verified eligible owners who applied for the  
195 homestead exemption credit in the immediately prior tax year, would cause all  
196 but one-quarter of one percent of the amount of the appropriation, minus any  
197 withholding by the governor, to be distributed during that fiscal year. The  
198 remaining one-quarter of one percent shall be distributed to the county  
199 assessment funds of each county on a proportional basis, based on the number of  
200 eligible owners in each county; such one-quarter percent distribution shall be

201 delineated in any such appropriation as a separate line item in the total  
202 appropriation. If no appropriation is made by the general assembly during any  
203 tax year or no funds are actually distributed pursuant to any appropriation  
204 therefor, then no homestead preservation credit shall apply in such year.

205         12. After setting the homestead exemption limit for applications made in  
206 2005, the director shall apply the limit to the homestead of each verified eligible  
207 owner and calculate the credit to be associated with each verified eligible owner's  
208 homestead, if any. The director shall send a list of those eligible owners who are  
209 to receive the homestead exemption credit, including the amount of each credit,  
210 the certified parcel number of the homestead, and the address of the homestead  
211 property, to the county collectors or county clerks in counties with a township  
212 form of government by August thirty-first. Pursuant to such calculation, the  
213 director shall instruct the state treasurer as to how to distribute the  
214 appropriation and assessment fund allocation to the county collector's funds of  
215 each county or the treasurer ex officio collector's fund in counties with a township  
216 form of government where recipients of the homestead exemption credit are  
217 located, so as to exactly offset each homestead exemption credit being issued, plus  
218 the one-quarter of one percent distribution for the county assessment funds. As  
219 a result of the appropriation, in no case shall a political subdivision receive more  
220 money than it would have received absent the provisions of this section plus the  
221 one-quarter of one percent distribution for the county assessment funds. Funds,  
222 at the direction of the county collector or the treasurer ex officio collector in  
223 counties with a township form of government, shall be deposited in the county  
224 collector's fund of a county or the treasurer ex officio collector's fund or may be  
225 sent by mail to the collector of a county, or the treasurer ex officio collector in  
226 counties with a township form of government, not later than October first in any  
227 year a homestead exemption credit is appropriated as a result of this section and  
228 shall be distributed as moneys in such funds are commonly distributed from other  
229 property tax revenues by the collector of the county or the treasurer ex officio  
230 collector of the county in counties with a township form of government, so as to  
231 exactly offset each homestead exemption credit being issued. In counties with a  
232 township form of government, the county clerk shall provide the treasurer ex  
233 officio collector a summary of the homestead exemption credit for each township  
234 for the purpose of distributing the total homestead exemption credit to each  
235 township collector in a particular county.

236         13. If, in any given year after 2005, the general assembly shall make an

237 appropriation for the funding of the homestead exemption credit that is signed  
238 by the governor, then the director shall, by July thirty-first of such year, set the  
239 homestead exemption limit. The limit shall be a single, statewide percentage  
240 increase to tax liability, rounded to the nearest hundredth of a percent, which, if  
241 applied to all homesteads of verified eligible owners who applied for the  
242 homestead exemption credit in the immediately prior tax year, would cause all  
243 of the amount of the appropriation, minus any withholding by the governor, to be  
244 distributed during that fiscal year. If no appropriation is made by the general  
245 assembly during any tax year or no funds are actually distributed pursuant to  
246 any appropriation therefor, then no homestead preservation credit shall apply in  
247 such year.

248           14. After setting the homestead exemption limit for applications made  
249 after 2005, the director shall apply the limit to the homestead of each verified  
250 eligible owner and calculate the credit to be associated with each verified eligible  
251 owner's homestead, if any. The director shall send a list of those eligible owners  
252 who are to receive the homestead exemption credit, including the amount of each  
253 credit, the certified parcel number of the homestead, and the address of the  
254 homestead property, to the county collectors or county clerks in counties with a  
255 township form of government by August thirty-first. Pursuant to such  
256 calculation, the director shall instruct the state treasurer as to how to distribute  
257 the appropriation to the county collector's fund of each county where recipients  
258 of the homestead exemption credit are located, so as to exactly offset each  
259 homestead exemption credit being issued. As a result of the appropriation, in no  
260 case shall a political subdivision receive more money than it would have received  
261 absent the provisions of this section. Funds, at the direction of the collector of  
262 the county or treasurer ex officio collector in counties with a township form of  
263 government, shall be deposited in the county collector's fund of a county or may  
264 be sent by mail to the collector of a county, or treasurer ex officio collector in  
265 counties with a township form of government, not later than October first in any  
266 year a homestead exemption credit is appropriated as a result of this section and  
267 shall be distributed as moneys in such funds are commonly distributed from other  
268 property tax revenues by the collector of the county or the treasurer ex officio  
269 collector of the county in counties with a township form of government, so as to  
270 exactly offset each homestead exemption credit being issued.

271           15. The department shall promulgate rules for implementation of this  
272 section. Any rule or portion of a rule, as that term is defined in section 536.010,

273 RSMo, that is created under the authority delegated in this section shall become  
274 effective only if it complies with and is subject to all of the provisions of chapter  
275 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
276 536, RSMo, are nonseverable and if any of the powers vested with the general  
277 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,  
278 or to disapprove and annul a rule are subsequently held unconstitutional, then  
279 the grant of rulemaking authority and any rule proposed or adopted after August  
280 28, 2004, shall be invalid and void. Any rule promulgated by the department  
281 shall in no way impact, affect, interrupt, or interfere with the performance of the  
282 required statutory duties of any county elected official, more particularly  
283 including the county collector when performing such duties as deemed necessary  
284 for the distribution of any homestead appropriation and the distribution of all  
285 other real and personal property taxes.

286 16. In the event that an eligible owner dies or transfers ownership of the  
287 property after the homestead exemption limit has been set in any given year, but  
288 prior to January first of the year in which the credit would otherwise be applied,  
289 the credit shall be void and any corresponding moneys, pursuant to subsection 12  
290 of this section, shall lapse to the state to be credited to the general revenue fund.  
291 In the event the collector of the county or the treasurer ex officio collector of the  
292 county in counties with a township form of government determines prior to  
293 issuing the credit that the individual is not an eligible owner because the  
294 individual did not pay the prior three years' property tax liability in full, the  
295 credit shall be void and any corresponding moneys, under subsection 11 of this  
296 section, shall lapse to the state to be credited to the general revenue fund.

297 17. This section shall apply to all tax years beginning on or after January  
298 1, 2005. This subsection shall become effective June 28, 2004.

299 18. In accordance with the provisions of sections 23.250 to 23.298, RSMo,  
300 and unless otherwise authorized pursuant to section 23.253, RSMo:

301 (1) Any new program authorized under the provisions of this section shall  
302 automatically sunset six years after the effective date of this section; and

303 (2) This section shall terminate on September first of the year following  
304 the year in which any new program authorized under this section is sunset, and  
305 the revisor of statutes shall designate such sections and this section in a revision  
306 bill for repeal.

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